

Title 28-A: LIQUORS
Chapter 55: MALT LIQUOR AND WINE WHOLESALE LICENSEES

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Maine Revised Statutes
Title 28-A: LIQUORS
Chapter 55: MALT LIQUOR AND WINE WHOLESALE LICENSEES

§1401. WHOLESALE LICENSES

1. Issuance of licenses. The bureau may issue licenses under this section for the sale and distribution of malt liquor, wine and fortified wine at wholesale.

[2013, c. 476, Pt. A, §29 (AMD) .]

2. Fees. Except as provided in subsection 4, the fee for a wholesale license is:

A. Six hundred dollars for the principal place of business; and [1987, c. 45, Pt. A, §4 (NEW) .]

B. Six hundred dollars for each additional warehouse maintained by the wholesale licensee, but not located at the principal place of business. [1987, c. 342, §109 (AMD) .]

[1987, c. 342, §109 (AMD) .]

3. Term of wholesale license. Except as provided in subsection 4, a wholesale license is effective for one year from the date of issuance.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Temporary permits. The bureau may issue special permits, upon application in writing, for the temporary storage of malt liquor or wine under terms and upon conditions prescribed by the bureau.

[1997, c. 373, §123 (AMD) .]

5. Qualifications. The bureau may not issue a wholesale license to an applicant unless:

A. If the applicant is a person, the applicant has been a resident of the State for at least 6 months; or [1987, c. 45, Pt. A, §4 (NEW) .]

B. If the applicant is a corporation, the applicant has conducted business in this State for at least 6 months. [1987, c. 45, Pt. A, §4 (NEW) .]

[1997, c. 373, §123 (AMD) .]

6. License transferrable to other premises. A wholesale license may be transferred from the premises in the town originally specified to premises in another town.

[1987, c. 45, Pt. A, §4 (NEW) .]

7. Warehouses and sales representatives. A wholesale licensee shall maintain a warehouse or warehouses within the State and employ one or more sales representatives, licensed under chapter 59, for the purpose of soliciting orders. For the purposes of this subsection, "sales representative" means an employee of a wholesale licensee whose primary duty is soliciting orders from or making sales to retail licensees.

[2015, c. 387, §1 (AMD) .]

8. Franchise or agreement with certificate of approval holder. A wholesale licensee shall operate under a franchise or agreement for the resale of malt liquor or wine within an allocated territory by a certificate of approval holder.

[1987, c. 45, Pt. A, §4 (NEW) .]

9. Sales to licensees only. A licensee under this section may sell or distribute malt liquor, wine and fortified wine only to persons licensed for the retail sale of malt liquor, wine or fortified wine for consumption on or off the licensed premises in accordance with this Title.

[2013, c. 476, Pt. A, §30 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §109 (AMD). 1997, c. 373, §123 (AMD). 2013, c. 476, Pt. A, §§29, 30 (AMD). 2015, c. 387, §1 (AMD).

§1402. TASTE TESTING OF WINE AND MALT LIQUOR PRODUCTS

1. Taste testing on wholesale licensee's premises. With the bureau's written permission, a wholesale licensee may designate a special area or room on the wholesale licensee's premises for the specific purpose of taste testing wine or malt liquor products.

[1997, c. 373, §124 (AMD) .]

2. Taste testing on retail licensee's premises. With the bureau's written permission, a wholesale licensee may rent or lease an area or room from an on-premise retail licensee for the purpose of inviting retail licensees to taste test wine or malt liquor products.

[1997, c. 373, §124 (AMD) .]

3. Conditions on taste-testing activity. The following conditions apply to all taste testings.

A. The wholesale licensee or a certificate of approval holder may provide the products for taste testing only if all taxes required by this Title have been paid. [2013, c. 368, Pt. XXXX, §4 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

B. Taste-testing activity must be conducted only within the special designated area or room. [1987, c. 45, Pt. A, §4 (NEW).]

C. Taste-testing activity must be open only to invited retail licensees or their authorized agents and not to their family members, guests or the general public. [1987, c. 45, Pt. A, §4 (NEW).]

D. After the taste-testing activity is concluded, the wholesale licensee shall remove all products supplied for the taste-testing activity from the retail licensee's premises. [1987, c. 45, Pt. A, §4 (NEW) .]

[2013, c. 368, Pt. XXXX, §4 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §110 (AMD). 1997, c. 373, §124 (AMD). 2013, c. 368, Pt. XXXX, §4 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

§1402-A. SAMPLES OF PRODUCTS

A person licensed as a manufacturer of malt liquor or wine under section 1355-A or licensed as a wholesaler may give a retail licensee samples of products under the following conditions: [2015, c. 386, §1 (AMD) .]

1. Invoice required. The products must be accompanied by an invoice;

[1997, c. 228, §1 (NEW) .]

2. Product registered. The product must be registered with the bureau and clearly labeled as a sample;

[1997, c. 228, §1 (NEW) .]

3. Taxes paid. Taxes must be paid on each item;

[1997, c. 228, §1 (NEW) .]

3-A. Partial-bottle wine samples. Partial-bottle wine samples may be provided to licensees licensed for on-premises consumption and off-premises sales if the person receiving a sample is 21 years of age or older and is in a supervisory or managerial position;

[2011, c. 629, §26 (AMD) .]

4. Full-bottle samples. The maximum amount of unopened full-bottle samples given to a retail licensee may not exceed 9 gallons of malt beverage and 9 liters of wine annually. A full-bottle sample is an unopened bottle of wine or malt beverage given to a retail licensee, which may be consumed by a retail licensee on or off the premises; and

[2011, c. 629, §27 (AMD) .]

5. Samples removed.

[2011, c. 629, §28 (RP) .]

6. Records maintained. Records must be maintained for a 2-year period by the licensee giving or receiving samples.

[1997, c. 228, §1 (NEW) .]

SECTION HISTORY

1997, c. 228, §1 (NEW). 2003, c. 69, §§1,2 (AMD). 2011, c. 629, §§25-28 (AMD). 2015, c. 386, §1 (AMD).

§1403. INTERSTATE PURCHASE OR TRANSPORTATION

1. No purchases other than from certificate of approval holder. No wholesale licensee may purchase or cause to be transported into the State any malt liquor or wine from any person to whom the bureau has not issued a certificate of approval.

[1997, c. 373, §125 (AMD) .]

1-A. Wholesale licensee may purchase from wholesale licensee. The bureau may give written permission to a wholesale licensee to purchase malt liquor or wine from another wholesale licensee.

[1997, c. 373, §126 (AMD) .]

2. Sale of malt liquor or wine not purchased from a certificate of approval holder prohibited.

No wholesale licensee may sell to another wholesale licensee any malt liquor or wine which has not been purchased from a brewery, winery or foreign wholesaler holding a certificate of approval.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. License revoked if it requires wholesale license to not sell other brands. The District Court Judge shall revoke the license of any wholesale licensee, who requires as a condition of selling malt liquor or wine to another wholesale licensee, that the purchasing wholesale licensee may not sell other brand names of malt liquor or wine.

[1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

4. Monthly report. By the 10th day of each calendar month, each wholesale licensee shall furnish to the bureau, in the form prescribed by the bureau, a monthly report of all malt liquor or wine purchased and sold during the preceding month.

[1997, c. 373, §127 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §111 (AMD). 1997, c. 373, §§125-127 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF).

§1403-A. DIRECT SHIPMENT OF WINE

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Direct shipper" means a winery that has obtained a wine direct shipper license under subsection 2. [2009, c. 373, §1 (NEW).]

B. "Outside the State" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country. [2009, c. 373, §1 (NEW) .]

[2009, c. 373, §1 (NEW) .]

2. Direct shipment of wine. A small winery or other winery holding a federal basic wine manufacturing permit located within or outside the State may obtain a wine direct shipper license by filing with the bureau an application in a form determined by the bureau accompanied by an application fee of not more than \$200, a copy of the applicant's current federal basic wine manufacturing permit and a list of wine labels to be shipped in accordance with this section.

[2013, c. 368, Pt. V, §46 (AMD) .]

3. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper must file an application for a wine direct shipper license under subsection 2 with the bureau on a form issued by the bureau along with a true copy of its current alcoholic beverage license issued in this State or another state and a \$100 registration fee.

[2009, c. 373, §1 (NEW) .]

4. Direct shipment requirements. A direct shipper may only ship wine that was produced by the direct shipper in accordance with the direct shipper's federal basic wine manufacturing permit to a recipient for personal use and not for resale. A direct shipper may not ship wine products commonly known as "wine coolers." A direct shipper shall label each package to be shipped in accordance with this section so that it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

[2009, c. 373, §1 (NEW) .]

5. Common carrier. Shipments made in accordance with this chapter must be made by a common carrier and must be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and address of the recipient. The common carrier shall obtain the signature of a person 21 years of age or older at the address listed on the shipping label prior to delivery of the shipment. The common carrier shall request photographic identification from the person signing for the shipment and verify that the person is 21 years of age or older.

[2009, c. 373, §1 (NEW) .]

6. Bottle size and case limit. A direct shipper may not ship a container of wine of less than 750 milliliters and may ship no more than 12 cases, each of which may contain no more than 9 liters or an equivalent volume, to any one recipient address in a calendar year.

[2009, c. 373, §1 (NEW) .]

7. Prohibited shipping areas. A direct shipper may not ship to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

[2009, c. 373, §1 (NEW) .]

8. License renewal. A direct shipper may annually renew its wine direct shipper license with the bureau by paying a \$50 renewal fee and providing the bureau with a true copy of its current alcoholic beverage license issued in this State or another state.

[2009, c. 373, §1 (NEW) .]

9. Sales tax registration and payment required. As a condition of receiving a certificate of approval, a shipper located outside the State shall comply with the provisions of Title 36, Part 3, including all requirements relating to registration as a seller and the collection, reporting and remittance of the sales and use taxes of the State, and shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of those obligations. The requirements of this subsection apply notwithstanding any other provision of law of the State.

[2009, c. 373, §1 (NEW) .]

10. Payment of excise taxes. A direct shipper located outside the State shall annually pay to the bureau all excise taxes due on sales to residents of the State in the preceding year, the amount of such taxes to be calculated as if the sales were in the State.

[2013, c. 368, Pt. XXXX, §5 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

11. Report. A direct shipper shall submit a report to the bureau annually in a manner and form prescribed by the bureau that includes the total number of cases of wine shipped to recipients in the State and, for a direct shipper located in the State, shipments made outside the State, the name and residence address of shipment recipients in the State, the common carrier used to deliver the shipments and the date, quantity and purchase price of each shipment.

[2013, c. 476, Pt. A, §31 (AMD) .]

12. Audit. The bureau may perform an audit of a direct shipper's records relevant to compliance with this section. A direct shipper shall provide copies of any records requested by the bureau within 10 business days of that request.

[2009, c. 373, §1 (NEW) .]

13. Violation. A person, including a common carrier, who knowingly causes a direct shipment in violation of this section is subject to a fine up to \$500 for a first offense and up to \$1,000 for any subsequent violation of this section. A direct shipper or common carrier who knowingly delivers wine to a person under 21 years of age is subject to a fine up to \$5,000. The bureau may suspend or revoke a wine direct shipper license for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

[2009, c. 373, §1 (NEW) .]

14. Jurisdiction. A direct shipper, as a condition of licensure, is subject to the jurisdiction and enforcement authority of the State for the purposes of enforcement of this section.

[2009, c. 373, §1 (NEW) .]

15. Not subject to beverage container law. Notwithstanding Title 38, chapter 33, wine shipped pursuant to this section does not require a refund value for beverage container control purposes.

[2015, c. 166, §5 (AMD) .]

16. Rules. The bureau shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 373, §1 (NEW) .]

SECTION HISTORY

2009, c. 373, §1 (NEW). 2011, c. 629, §§29, 30 (AMD). 2013, c. 368, Pt. V, §46 (AMD). 2013, c. 368, Pt. XXXX, §5 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF). 2013, c. 476, Pt. A, §31 (AMD). 2015, c. 166, §5 (AMD).

§1404. UNBONDED WHOLESALE LICENSEES

1. Procedure for unbonded wholesale licensees. Unbonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms. [1997, c. 373, §128 (AMD) .]

B. The unbonded wholesale licensee shall complete the forms in quintuplicate. [1997, c. 373, §128 (AMD) .]

C. The unbonded wholesale licensee ordering malt liquor or wine shall mail 3 copies of the form to the bureau with a check for the amount of excise taxes required to cover the amount of the order. [1997, c. 373, §128 (AMD).]

D. The unbonded wholesale licensee may mail the original copy of the order to the brewery or winery or wholesaler with whom the licensee wishes to place the order. [1997, c. 373, §128 (AMD).]

E. On receipt of the 3 copies and a check for excise taxes, the bureau shall promptly process the copies and return one copy to the wholesale licensee and send one to the brewery, winery or foreign wholesaler designated to receive the order. The bureau shall keep the 3rd copy on file. [1997, c. 373, §128 (AMD).]

F. No brewery, winery or foreign wholesaler may ship or release malt liquor or wine for delivery in Maine until notified by the bureau that the excise tax has been paid in accordance with this section. [1997, c. 373, §128 (AMD).]

[1997, c. 373, §128 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §128 (AMD).

§1405. BONDED WHOLESALE LICENSEES

1. Procedures for bonded wholesale licensees. Bonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms. [1997, c. 373, §129 (AMD).]

B. The bonded wholesale licensee shall complete the forms in triplicate. [1987, c. 45, Pt. A, §4 (NEW).]

C. The bonded wholesale licensee shall submit the original copy to the brewery, winery or foreign wholesaler with whom he wishes to place the order. [1987, c. 45, Pt. A, §4 (NEW).]

D. The bonded wholesale licensee shall then mail to the bureau one copy of the form and retain one copy for the licensee's files. [1997, c. 373, §129 (AMD).]

[1997, c. 373, §129 (AMD) .]

2. Corporate security bond. To secure payment of the excise tax, each wholesale licensee shall file with the bureau a corporate surety bond guaranteeing payment of the proper excise tax due the State.

A. The bureau shall fix the amount and terms of the bond, subject to the following restrictions.

(1) The bond must be equal to the highest monthly excise tax paid by the wholesale licensee during the period of the prior year license, plus 10% of the highest month.

(2) New licensees desiring to furnish bond under this section shall furnish a corporate surety bond in an amount to be determined by the bureau.

(3) All bonds must be provided and effective only for each licensed year. [2013, c. 368, Pt. XXXX, §6 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

B. Failure to pay the excise tax when due is grounds for suspension of the license of the wholesale licensee. [2013, c. 368, Pt. XXXX, §6 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

[2013, c. 368, Pt. XXXX, §6 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

3. Payment of excise tax. By filing the bond required in subsection 2, a wholesale licensee may pay monthly the excise tax imposed by section 1652 on all malt liquor or wine shipped into the State as shown by invoice of the shipment by the out-of-state wholesaler or certificate of approval holder.

A. The wholesale licensee shall pay the excise tax by the 15th day of the calendar month following the month in which shipment occurs. [2013, c. 368, Pt. XXXX, §7 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

B. At the time of payment of the excise tax, each Maine wholesale licensee shall file with the bureau in the form prescribed by the bureau:

(1) A verified monthly report of all malt liquor or wine purchased or imported based on the date of shipment invoice during the preceding calendar month; and

(2) Any additional information the bureau requires to compute and ensure the accuracy of the excise tax payment accompanying the report. [2013, c. 368, Pt. XXXX, §7 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

[2013, c. 368, Pt. XXXX, §7 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §§129-131 (AMD). 2011, c. 147, §2 (AMD). 2013, c. 368, Pt. XXXX, §§6, 7 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

§1406. REPORT OF CHANGES IN WHOLESALE LICENSEES AND CERTIFICATE OF APPROVAL HOLDERS TO BUREAU

1. Certificate of approval holders must list wholesale licensees with bureau; changes. Each certificate of approval holder shall:

A. File with the bureau a list of the wholesale licensees who distribute their products in the State; and [1997, c. 373, §132 (AMD).]

B. Give written notice to the bureau and the wholesale licensee affected at least 90 days before any change in:

(1) Its wholesale licensees; or

(2) The territory of its wholesale licensee in the State. [1997, c. 373, §132 (AMD).]

[1997, c. 373, §132 (AMD) .]

2. Wholesale licensees must list certificate of approval holders with bureau; changes. Each wholesale licensee shall:

A. File with the bureau:

(1) A list of the certificate of approval holders for whom it distributes malt liquor or wine in the State; and

(2) A statement of the boundaries of its territories; and [1997, c. 373, §132 (AMD).]

B. Give written notice to the bureau and the certificate of approval holder affected at least 90 days before any change in:

(1) Its territory; or

(2) The distribution of its products. [1997, c. 373, §132 (AMD).]

[1997, c. 373, §132 (AMD) .]

3. Shortened waiting period before change. The bureau may shorten the waiting period before a change is made in the following situations.

A. A certificate of approval holder or a wholesale licensee may request a hearing before the bureau to shorten the waiting period before a change is made. The bureau may, for cause, shorten the waiting period before approving a change in either the wholesale licensee or the wholesale licensee's territory. [1997, c. 373, §132 (AMD).]

B. If both the certificate of approval holder and the wholesale licensee affected waive the 90-day waiting period by giving the bureau written notice, then the bureau may immediately approve a change in either the wholesale licensee or the wholesale licensee's territory. [1997, c. 373, §132 (AMD).]

[1997, c. 373, §132 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §132 (AMD).

§1407. EXCLUSIVE DISTRIBUTORS OF CERTIFICATE OF APPROVAL HOLDERS' PRODUCTS

1. Exclusive distributors. Except as provided in section 1454, the wholesale licensee appointed by the certificate of approval holder to be the exclusive distributor for specific brands of liquor cannot be terminated as exclusive distributor of those specific brands upon the voluntary or involuntary termination or transfer of the same brands of liquor by the certificate of approval holder who registered the specific labels and established prices with the bureau. The certificate of approval holder acquiring these brands shall take the place of the certificate of approval holder who appointed the distributors and shall comply with section 1406.

[1987, c. 342, §112 (AMD) .]

2. Unfair trade practice. A violation of this section shall be considered a violation of the Maine Unfair Trade Practices Act and all remedies provided by that Act are available for a violation of this section.

[1993, c. 1, §72 (COR) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §112 (AMD). RR 1993, c. 1, §72 (COR).

§1408. POSTING OF PRICES

1. Posting by certificate of approval holders and bottlers. Certificate of approval holders and all licensed bottlers must post with the bureau the F.O.B. shipping point prices for which they are selling malt liquor or wine to wholesale licensees.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Posting by wholesale licensees. Wholesale licensees must post with the bureau the delivered prices for which they are selling malt liquor or wine to licensees and all other entities or instrumentalities.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Posted prices must include deposits. All prices posted must include deposits required on returnable items, including kegs.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Price changes. Except as provided in paragraph A, certificate of approval holders and manufacturer's shall give written notice of price changes to the bureau and their respective wholesale licensees at least 30 days before the effective date. Wholesale licensees shall give written notice of their price changes to the bureau at least 15 days before the effective date. All price changes are effective on the first day of the month.

A. The bureau may give written permission to certificate of approval holders, manufacturers or wholesale licensees to reduce the notice period for price changes in specific instances. [1997, c. 373, §133 (AMD) .]

[1997, c. 373, §133 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §113 (AMD). 1997, c. 373, §133 (AMD) .

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